Single Bench (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.NO. 4872/2004

PETITIONER: N.K. Chatterji
S/O Shree M.K. Chatterji
Aged about 60Years
R/O Behind Milan Kiran Stores
Devpuri P.S. Tikrapara
Teh. & Distt. Raipur (C.G.)

P.R. No. 4876/04
Presented by Shri N.D. Diwan
dated 15.12.04

VERSUS

RESPONDENTS :

(1) Keju Ram
S/O Jhadu Ram Satnami
Aged about 55 Years

(2) Smt. Bodhari Bai
W/O Keju Ram Both
R/O Devpuri P.S. Tikrapara
Raipur, Teh. & Distt. Raipur (C.G.)

(3) Chhattisgarh State Electricity Board
Through Executive Engineer
Main Office, Chhattisgarh
Electricity Board Gudhiyari,
Tah.& Distt. Raipur (C.G.)

P.R. No.
Pre

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI ETC OR ANY OTHER DIRECTIONS OR ORDER TO DO JUSTICE IN THE MATTER.

To,

The Hon'ble Chief Justice and his Companion Justices of the Hon'ble High Court of Chhattisgarh at Bilaspur.

RESPECTFULLY SHOWETH.

(27)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP No. 4872 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	11.1.2005 Shri Satyendra Sahu, counsel for the petitioner. The petitioner has preferred this writ petition under Article 227 of the Constitution of India challenging the legality, propriety and correctness of the order dated 14.10.2004 passed by learned District Judge, Raipur in Civil Case No.3B/2003 whereby learned District Judge rejected the prayer of the defendant/petitioner herein for amendment of the written statement. As argued by learned counsel for the petitioner, respondent No.1 & 2 herein have filed a civil suit against the present petitioner for compensation on the ground that their son was died due to electrocution in the farm house of the petitioner herein. Written Statement was filed on behalf of the petitioner herein and based on the pleadings of the parties issues were framed, even respondent No.1 & 2 adduced their evidence and closed the evidence. When the matter was fixed for evidence of the petitioner herein, all of a sudden an application under Order 6 Rule 7 of CPC (Annexure P-4) for amendment of the written statement was filed on behalf of the petitioner taking the ground that earlier written statement was prepared by his daughter, as he was not well and when they were preparing for the evidence they came to know that some incorrect defense has been taken in the written statement. Therefore, by the proposed amendment now the defendant/petitioner herein wants to substitute the defense totally by denying that the poultry farm where the mishap took place does not belong to the petitioner herein.	

GI PRJ—FS/350—12/2000—50,000.

(28)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

~~Looking to the request for substitution and inconsistent plea~~ of the existing written statement, learned District Judge rejected the amendment application of the petitioner relying on the decision of the Hon'ble Apex Court reported in AIR 1977 SC 680.

I have perused the impugned order and application for amendment.

It is true that by the proposed amendment the petitioner herein wants to substitute the written statement and now he wants to totally deny that the farmhouse where the mishap took place and the son of the respondents herein died due to electrocution does not belong to him. Therefore, by the proposed amendment the petitioner herein wants to substitute the defense contrary to the admission already made. Said written statement was signed and verified by the petitioner himself, therefore, total change in the written statement is not permissible under the law. The Hon'ble Apex Court in the above matter held that application for amendment of written statement by substituting certain paragraphs introducing entirely different new case cannot be permitted.

In view of the above, I do not find any illegality, infirmity and incorrectness in the impugned order rejecting the application for amendment of the petitioner, the petition of the petitioner is liable to be dismissed and same is dismissed at the admission stage itself.

Sd/-
L.C.BHADOO
Judge

R/-